

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FELIX L. SORKIN,

Plaintiff,

v.

UNIVERSAL BUILDING PRODUCTS,

Defendant.

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Civil Action No. 1:08-CV-133

JUDGE RON CLARK

ORDER

The court entered final judgment in this case on November 6, 2009, ordering that Plaintiff Felix L. Sorkin should take nothing from his claims against Defendant Universal Building Products. *See* Doc. # 47. UBP filed a motion for attorney's fees on November 19, 2009. UBP now requests that the court enter an order pursuant to Fed. R. Civ. P. 58(e), providing that the motion for attorney's fees will have the same effect under Fed. R. App. P. 4(a)(4) as a timely motion made under Fed. R. Civ. P. 59. Mr. Sorkin does not oppose UBP's motion.

As a general rule, "the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees." Fed. R. Civ. P. 58(e). Mr. Sorkin's deadline for initiating an appeal is December 7, 2009. Fed. R. App. P. 4(a)(1)(A). However, as UBP has made a motion for attorney's fees under Fed. R. Civ. P. 54(d)(2), "the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59." Fed. R. Civ. P. 58(e). In other words, the effect of granting UBP's request would be to postpone Mr. Sorkin's appeal deadline until the court has entered an order disposing of the pending motion

for attorney's fees. Fed. R. App. P. 4(a)(4). The court is of the opinion that the motion should be granted.

IT IS THEREFORE ORDERED that Defendant Universal Building Products's Unopposed Motion for Order Pursuant to Fed. R. Civ. P. 58(e) [Doc. # 53] is GRANTED. UBP's pending motion for attorney's fees [Doc. # 48] shall have the same effect under Fed. R. App. P. 4(a)(4) as a timely motion filed under Fed. R. Civ. P. 59.

So **ORDERED** and **SIGNED** this **1** day of **December, 2009**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge